

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-v-	:	16-CR-692-13 (JMF)
	:	
MARTINS APSKALNS,	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
Defendant.	:	
	:	
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JESSE M. FURMAN, United States District Judge:

On January 3, 2024, Defendant filed a motion, pursuant to 18 U.S.C. § 3582(c)(2), for a reduction of his sentence pursuant to Amendment 821 to the United States Sentencing Guidelines, which went into effect on November 1, 2023, and applies retroactively. *See* ECF No. 590. A reduction of sentence is not authorized, however, if the amendment at issue “does not have the effect of lowering the defendant’s applicable guideline range.” U.S.S.G. § 1.10(a)(2); *see* 18 U.S.C. § 3582(c)(2). That is the case here. As relevant, Amendment 821 added U.S.S.G. § 4C1.1, which provides a two-point offense level reduction for “zero point offenders.” A defendant does not qualify for that reduction, however, if he received “an adjustment under §3B1.1 (Aggravating Role),” *id.* § 4C1.1(a)(10), as Defendant did, *see* PSR ¶ 38. Accordingly, Defendants’ motion must be and is DENIED.


This Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Memorandum Opinion and Order would not be taken in good faith, and *in forma pauperis* status is thus denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to terminate ECF No. 590 and to mail a copy of this Memorandum Opinion and Order to:

Martins Apskalns
Register No. 86434-054
FCI Memphis
Federal Correctional Institution
P.O. BOX 34550
Memphis, TN 38184

SO ORDERED.

Dated: January 8, 2024
New York, New York



JESSE M. FURMAN
United States District Judge